

in further conformity with the rule, an order passed, on the 31st of January, 1852, ratifying and confirming it, and directing the trustees to apply the proceeds accordingly, with the exception of two inconsiderable allowances to the trustees, the payment of which was suspended.

Afterwards, to wit, on the 4th of February following, Thomas Matthews, the owner of the claim founded on the mechanics' lien, and which is designated as claim No. 50 in the Auditor's statement of claims, filed his petition, in which, for the reasons therein stated, he prayed "that the order ratifying the said report might be rescinded, and that an opportunity might be afforded him to present his claim properly authenticated," which had not theretofore been done upon this petition. On the day following an order passed, rescinding the order of ratification of the 31st of January, 1852, referring the cause again to the Auditor, with directions to state another account, in which he should reserve of the proceeds of sale a sufficient amount to cover the said claim, should the same be established.

The proceedings further show, that on the 7th of February, 1852, two days after the rescinding order passed, the Auditor addressed a letter to the counsel representing claim No. 50, notifying him of the said reference, and requesting to be furnished with a short copy of the judgment, or such information as would enable him to reserve money enough for its satisfaction; and, on the 17th day of the same month and year, a short copy was filed accordingly.

On the 17th of April, 1852, the Auditor made a report, in conformity with the order of the 5th of February preceding, in which he states that in the account accompanying it, he had applied the proceeds to the payment in full of claim No. 50; but that the character of the claim did not appear, nor could he ascertain whether, if the judgment should be affirmed upon the appeal still pending, it would be entitled to priority over the judgments now filed, or any of them.

Afterwards, on the 7th of June following, exceptions were filed by a number of the creditors to this report, several of